

Forest Service, USDA

§ 294.46

(3) A linear construction zone is no wider than its intended use;

(4) Within a native cutthroat trout catchment or identified recovery watershed, a linear construction zone will not diminish, over the long-term, conditions in the water influence zone and the extent of the occupied native cutthroat trout habitat;

(5) Reclamation of a linear construction zone will not diminish, over the long-term, roadless area characteristics; and

(6) That watershed conservation practices will be applied to all projects occurring in catchments with occupied native cutthroat trout habitat.

(e) *Linear construction zone decommissioning.* Where a linear construction zone is authorized in a Colorado Roadless Area, installation of the linear facility will be done in a manner that minimizes ground disturbance, including placement within existing right-of-ways where feasible. All authorizations approving the installation of linear facilities through the use of a linear construction zone shall include a responsible official approved reclamation plan for reclaiming the affected landscape while conserving roadless area characteristics over the long-term. Upon completion of the installation of a linear facility via the use of a linear construction zone, all areas of surface disturbance shall be reclaimed as prescribed in the authorization and the approved reclamation plan and may not be waived.

§ 294.45 Environmental documentation.

(a) Environmental documentation will be prepared pursuant to Section 102 of the National Environmental Policy Act, 40 CFR part 1500, and 36 CFR part 220 for any proposed action within a Colorado Roadless Area. Proposed actions that would significantly alter the undeveloped character of a Colorado Roadless Area require an Environmental Impact Statement (EIS).

(b) The Forest Service will offer cooperating agency status to the State of Colorado, for all proposed projects and planning activities subject to this rule that would be implemented on lands within Colorado Roadless Areas. Where the Forest Service does not have the

authority to offer formal cooperating agency status, the Forest Service shall offer to coordinate with the State.

§ 294.46 Other activities.

(a) *Water Rights.* This subpart in no manner restricts any party from seeking modification of a pre-existing water court decree, but after July 3, 2012 any Forest Service authorization required for road construction, road reconstruction, tree cutting, or linear construction zones associated with a modified water court decree must conform to the requirements in this subpart; provided that road construction or reconstruction may be authorized where necessary to change the location of a headgate and associated ditch, pursuant to Colorado Revised Statute 2011 §37-86-111.

(b) *Oil and Gas Leases.* Oil and gas leases issued within a Colorado Roadless Area after July 3, 2012 will prohibit road construction/reconstruction. The Forest Service shall not authorize the Bureau of Land Management to grant any request for a waiver, exception, or modification to any oil or gas lease if doing so would result in any road construction within a Colorado Roadless Area. For oil and gas leases issued in a Colorado Roadless Area prior to July 3, 2012, the rule preserves any existing leases and surface development rights. The rule also preserves any existing limitations on surface development rights arising from lease terms, lease stipulations, conditions of approval, 36 CFR 228.100, and Onshore Oil and Gas Orders.

(c) *Oil and Gas Leases on Upper Tier Acres.* Oil and gas leases issued within upper tier acres after July 3, 2012 will require a no surface occupancy stipulation. The Forest Service shall not authorize the Bureau of Land Management to grant any request for a waiver, exception, or modification to any oil or gas lease if doing so would result in surface occupancy within an upper tier area.

(d) *Oil and Gas Surface Use Plans of Operation.* Where applicable and consistent with lease rights, during the review of any application for a surface use plan of operations affecting lands within a Colorado Roadless Area, the responsible official will:

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(1) Locate, without compromising health and safety standards, roads, well sites, and facilities on pre-existing areas of surface disturbance. Project design shall minimize the amount of necessary temporary road construction or reconstruction.

(2) Consider an alternative for proposed operations that addresses locating directional drilling of multi-well sites on pre-existing areas of surface disturbance. Such an alternative can be dismissed from detailed analysis with clear justification.

(3) Restrict road construction for leases partially within Colorado Roadless Areas to portions of the lease outside of Colorado Roadless Areas except when doing so will be substantially more environmentally damaging, compromise safety standards, or is unfeasible due to surface and/or operational conditions.

(4) Perform reclamation of surface disturbances incrementally, to minimize the total area of disturbance at any given point in time during the exploration or development of a lease.

(5) Design temporary roads and facilities to blend with the terrain to minimize visual impacts and to facilitate restoration when the road is no longer needed.

(6) Co-locate, consistent with health and safety standards, power lines, flow lines and pipelines within the right-of-way of roads or other LCZs to minimize the area of surface disturbance.

(7) Consider new and developing low impact techniques and technologies and either apply or dismiss with justification.

(8) Consider the best available technology to minimize noise and air emissions.

(e) *Trails*. Nothing in this subpart shall affect the current or future management of motorized and non-motorized trails in Colorado Roadless Areas. Decisions concerning the management or status of motorized and non-motorized trails within Colorado Roadless Areas under this subpart shall be made during the applicable forest travel management processes.

(f) *Motorized access*. Nothing in this subpart shall be construed as limiting the authority of the responsible official to approve existing and future motor-

ized access not requiring road construction or reconstruction in Colorado Roadless Areas associated with grazing permits, special use authorizations, and other authorizations.

(g) *Livestock grazing*. The authority to issue livestock grazing permits on national forest system lands within a Colorado Roadless Area is not affected by this subpart; however, no new temporary or forest roads shall be authorized through grazing permits issued after July 3, 2012.

§ 294.47 Modifications and administrative corrections.

Modifications and administrative corrections pursuant to this subpart, after coordination with the State, may be made under the following circumstances:

(a) *Modifications to boundaries*. The Chief of the Forest Service may modify the boundaries of any designated Colorado Roadless Area identified in § 294.49 or add new Colorado Roadless Areas based on changed circumstances. Modifications and additions will be reflected in the set of maps maintained at the national headquarters office of the Forest Service. The construction or reconstruction of a temporary road or tree cutting, sale, or removal will not result in any boundary modification of a Colorado Roadless Area. Public notice with a minimum 90-day comment period will be provided for any proposed Colorado Roadless Area boundary modifications or additions.

(b) *Administrative corrections to boundaries*. The Chief of the Forest Service may issue administrative corrections after public notice and a 30-day comment period. Administrative corrections to the maps of any designated Colorado Roadless Areas identified in § 294.49, including upper tier acres are adjustments to remedy errors such as clerical or improvements in mapping technology. Other than clerical errors, an administrative correction is based on improved field data due to updated imagery, global positioning system data, or other collected field data.

(c) *Amendments to rule language*. Any amendment of this subpart will include coordination with the State and the appropriate level of NEPA analysis. A